



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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Phone 800-227-8917

<http://www.epa.gov/region08>

SDMS Document ID



1020127

Ref: 8EPR

Mr. DC Orr

1117 Nevada Avenue

Libby, Montana 59923

Dear Mr. Orr:

The office of Senator Conrad Burns recently brought to our attention your July, 9, 2005, *comment* letter to the Senator regarding various items of concern at the Libby Asbestos Superfund Site. EPA regrets that you are not receiving a more timely response. *pending issue*

Your comments on the export plant, lumber mill, city buildings, and the boat ramp have been previously addressed on several occasions in public meetings, through Inspector General investigations, and in personal conversations that you have had with EPA staff. *so those issues* ~~will not be further addressed at this time.~~

EPA acknowledges that there is asbestos contamination along Highway 37 which *likely* will be scheduled for cleanup once a Record of Decision is final. As the Contaminant Screening Study Final Summary Report for Montana State Highway 37 describes on pages 2-4 through 2-13 (enclosed), the contamination level is not alarmingly high, but it does warrant concern. After careful consideration of the sample results, location of the contamination, magnitude of the visible vermiculite, and anecdotal reports from other agencies and from Libby residents, we concluded that EPA or its contractors were not the source of this contamination. EPA will continue to oversee contamination transport, contamination disposal, and decontamination practices at the Libby Asbestos Site to ensure the environment and Libby residents are protected.

I hope this information will help address your questions about this very important project in Libby. If you need anything further for now, please contact Ted Linnert, EPA's Community Involvement Coordinator for the Libby site, at toll free 800-227-8917, ext. 6119.

Sincerely yours,

ORIGINAL SIGNED BY
Robert E. Roberts

Robert E. Roberts
Regional Administrator

cc.: Ms. Denise Smith, Office of Senator Conrad Burns

bcc: Max Dodson

Jim Christiansen

PChurdill
EPR 2/9/06

7/1/06
Garrett
Chadwick
2/2/06

Sam
dodson
2/13/06

see
file
2-13-06

Peggy Churchill
Ted Linnert
Sandy Fells



Detail



AL-06-000-0636

Control Number: AL-06-000-0636

of Extensions: 0

[Gene

Alternate Number:

Status: Pending

Citizen/Originator: Conrad Burns - SD-187 Dirksen Senate Office Building Washington, DC

Committee:

Sub Committee:

Constituent: D.C. ORR - 1117 NEVADA AVE. LIBBY, MT

Addressee:

Addressee's Organization:

Primary Subject: SIGNIFICANT CONTAMINATION ALONG HIGHWAY 37
NORTH OF LIBBY

Secondary Subject:

File Code: 141-A CONGRESSIONAL
CORRESPONDENCE

Medium/Contact Type: LTR (Letter)

Priority Code: Normal

Letter Date: Jan 05, 2006

Received Date: Jan 13, 2006

Closed Date: N/A

Due Date: Jan 27, 2006

Signature:

RA-R8-Regional Administrator - Region 8

(+)

Signature Date:

Date



CC:

JOSH LEWIS, OSWER -- Immediate Office

[Search CC]

Instructions: RA-R8-Prepare ~~and~~ response for signature by the Regional Administrator for Region 8

Instructions Related Notes: PLEASE RESPOND DIRECTLY TO THE CONSTITUENT AND COPY THE SENTORS OFFICE

General Notes:

Lead Author:

Lead Author Office:

Lead Author Due Date: N/A

Lead Author Assigned Date: N/A

Lead Author Complete Date: N/A

Lead Author Instruction:

RECEIVED IN

Supporting Author:

JAN 23 2006

EPR-IO

Lead Info:

Assigner	Office	Assignee	Assigned Date	Due Date	Instructions
Cassandra Eades	OCIR	R8	Jan 13, 2006	Jan 27, 2006	RA-R8-Prepare and response for signature by the Regional Administrator for Region 8. Reply must be handcarried for concurrences + signature. Questions? Call Sandy at x6604. Thank you.
Sandy Fells	800	8EPR	1-18-2006		

REC'D 1/23/06 -B GARCIA
Support Info: assigned to R CHURCHILL

Assigner	Office	Supporting Assignee	Assigned Date
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No records found.

Assignment History:

<u>Assigner</u>	<u>Office</u>	<u>Action</u>	<u>Date of Action</u>
Cassandra Eades	OCIR	Assign R8 as lead office	01/13/2006 09:48:

Comment:

Commentator	Comment	Date of Comment
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No records found.

*: Required field

(+): Lookup field, press space bar for complete list

FAX

UNITED STATES SENATOR • MONTANA

CONRAD BURNS

FAX TO: _____

OFFICE: _____

FAX #: 202 564 1828 PHONE: _____

DATE: 1/5/06 TIME: _____

PAGES (INCLUDING COVER SHEET): 3

SUBJECT: D.C. Orr

FROM: Jedidiah Link

COMMENTS: _____

D.C. Orr
 1117 Nevada Ave.
 Libby, MT 59923-1212

Please respond directly to the constituent and
 copy the Senator's office.

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Home Page: <http://burns.senate.gov>

7-9-05

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Honorable Senator Burns;

2005 JUL 25 AM 6:31
Last month the EPA team in Libby announced the identification of "significant" contamination along Highway 37 North of Libby. Over the last five years we have heard Gayle Beachfield tell stories at the Community Advisory Group (CAG) detailing Grace trucks historically hauling ore along this corridor to the Export Plant in Libby. The absence of tarps and the light, fluffy nature of the ore created a credible theory that this had contaminated Highway 37 from the mine to the Export Plant in Libby. Even miniscule amounts escaping from every truck hauling consistently over the course of decades of mine operations could conceivably leave significant contamination.

I was sceptical because I had worked on the "Libby Northeast Project" and personally stripped all of the vegetation off of the roadside in 1996 to facilitate the placement of new, virgin fill to bring the highway shoulders up to federal specifications. My instructions were to remove everything two inches below the asphalt at the pavement/dirt interface. The new overlay would cover up any blemishes that I left. With the overlay, everything from 6 inches to 6 feet in some places was new fill obtained upstream from the mine at the old rerag haul bridge. This total rebuild of Highway 37 occurred after the decades of mine operations.

According to Jim Christensen, EPA sampled twice; once at 0-6 inches and once at 0-1 inch. Grace stopped hauling in 1990 and the material EPA sampled was newly placed along the highway in 1996. I see no possible way that EPA can tie this contamination to Grace's operations since Grace was no longer operating in Libby after the rebuild of this highway.

The ramifications of this revelation are huge for the people of Libby caught between these behemoths. Grace cannot be the Potentially Responsible Party (PRP) in this latest contamination. Thus, Grace won't be legally liable for the costs associated with cleanup. Indeed, the most likely scenario for explaining this contamination points to the EPA themselves. The only trucks that have hauled Libby amphibole asbestos along that corridor since 1996 are the EPA contractors hauling the cleanup materials back to the mine.

Environmental Cleanup Contractor Montgomery Watson backed out of a nearly 35 million dollar contract in 2002 because they were worried about the liability associated with stirring up this contaminant. They rightly concluded that they would be held liable for increasing the exposure pathways suffered by this sensitized community. Now we are seeing proof of this concern for cleanup contractors in Libby.

EPA On-site Coordinator Paul Peronard was quoted in the Western News early on in the cleanup stating that the only places that showed asbestos in their ambient air sampling in Libby were the work sites where EPA contractors were stirring up the contaminant. It was "no surprise" he said, that their cleanup would create exposure pathways. EPA has maintained that they are here to reduce exposure pathways and make Libby "safe". It has long been my contention that they are creating increased exposures for the people of Libby. We see T-shirts around town that say Exposing People to Asbestos with the E, P and A highlighted.

When EPA refused to hold Grace to the conditions of the Unilateral Administrative Order (UAO) on the cleanup of the Export Plant, the first cleanup initiated in Libby, they set the stage for this failure. This cleanup was the quintessential poster child for bureaucratic bungling and government corruption.

Grace initially cleaned the 24,000 square feet of City owned buildings and hauled the contaminated dirt and debris to the mine. EPA OSC Peronard stated at a CAG meeting that his initial scepticism was unwarranted and Grace had done a fine job. Les Skramstad removed a few boards from the building the next day and vermiculite poured out of the interstitial space behind them. EPA was poised to allow a very superficial cleanup by Grace without intervention by Mr. Skramstad.

EPA then ordered Grace to demolish the 24,000 square feet of City owned buildings because they now admitted that they couldn't clean a portion of a building and still protect human health. Grace had offered to build 12,000 square feet of new buildings on another piece of City owned land to temporarily house a retail lumber supply operation that was leasing the existing buildings from the City. Millwork West would move to these new buildings temporarily and return to the Export Plant after the cleanup was completed. Grace would then donate the new buildings to the City for public relations purposes.

Grace representatives valued these buildings at \$400,000 and the city council voted to accept this gift from Grace. Mayor Tony Berger offered to facilitate the placement of the buildings as required of the City by the EPA work plan which stated "the structure will be erected at a location selected by the city of Libby". Three days later, the buildings started to go up on private property owned by the mayor and his family. Grace and EPA subsequently paid for an estimated \$1,000,000 in improvements to the mayor's private

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SEN BURNS KALISPELL

--- DC OFFICE

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property. EPA installed an illegal septic system as part of the relocation of Millwork West, violating local and state codes.

Grace destroyed the city owned buildings at the Export Plant and the city received no replacements. Grace stopped short of meeting the conditions of the LAC when they refused to clean up to the northern boundary. The work plan stated that the cleanup boundary on the north was the Kootenai River. EPA and city officials allowed Grace to leave this area untouched. I called this a payoff for the mayors buildings.

Around Memorial Day 2003 city workers were excavating a new boat ramp into the Kootenai at the Export Plant along the northern boundary. This area is used as a public park and frequented by many men, women and their children. City workers exposed contamination at the outset of this excavation and notified their supervisor. The supervisor, who knew that this would cause considerable political fallout for his boss, ordered them to continue digging and spread the contamination, even dumping it in the river.

This action resulted in the greatest single point exposure Libby has suffered since the closure of the mine. I can make a credible case that this caused much of the contamination of Highway 37 since they were tracking this contamination onto Highway 37 which directly abuts the Export Plant.

The City took a buried, concentrated pocket of vermiculite, and spread it on the riverbank from one end of the park to the other. Several areas were left littered with obvious contamination glittering in the sun. EPA, in an effort to minimize their liabilities from their involvement in the mayor's windfall profiteering, stated in a CAG meeting that the vermiculite left exposed to wind and sun at the Export Plant was "clean" vermiculite and refused to cover all of it. This "clean" story directly contradicted their "two fibers can kill you" stance. The vermiculite that their water trucks drove through every day for months was "clean" vermiculite. These trucks would water this "clean" vermiculite, fill up out of the Kootenai River at this site, and drive through this wet, "clean" vermiculite as they traveled all over town carrying water to other cleanup sites. There were no decontamination procedures in place at this time. The mud that stuck to their tires and was distributed around town was contaminated with vermiculite. The flow of private traffic through this park continued unabated and EPA refused to warn the public of the dangers. These personal vehicles carried the contamination everywhere, it stained Hwy 37 at the approach. The \$300,000 that EPA spent to clean their mess up brought the residential work to a standstill. This was classic waste, fraud, and abuse.

It is long past time for Congress to step in and order an investigation into the problems in Libby and take steps to protect human health. EPA continues to call this a mining disaster even though all industrial sites with proven contamination close to population centers have been cleaned, only the mine is left. They are now removing Vermiculite Asbestos Insulation (VAI) from private attics while leaving it in walls and carpets, thus not doing anything to limit exposures and protect human health.

Removal of a commercial product is strictly prohibited under Superfund regulations. That does NOT constitute a mining disaster, it is a regulatory failure of epic proportions instigated by the EPA. They had reports of the problems in Libby a generation ago and blamed funding levels and communications problems for the suffering their inaction wrought. Now they are poised to leave the next generation adrift in a sea of uncertainty because of bureaucratic ineptitude. We can only halt this repeat of history if we act now.

This action of removing VAI is predicated on the disputed reports that Grace provided this product free of charge to Libby residents. If that truly happened, it was an aberration extended to a privileged few with Grace connections, not the norm. Former Administrator Whitman called it a "unique" situation which called for EPA action that is in direct contravention to EPA authority and regulations.

EPA knows that their authority will be challenged on this point in the Record of Decision (ROD) being prepared now. They are frantically searching for another site that actually meets the conditions of Superfund so they can justify their actions in spending 20 million dollars per year in Libby.

I find it abhorrent that the Highway 37 contamination that they are holding up as justification has actually been created by their own actions. If it proves out that they have contaminated this corridor in only five years it will point to disastrous human exposures arising out of the cleanup, not historic mining. These exposures will not manifest themselves for 20 to 40 years, the latency period for adverse health effects of asbestos exposure. Anyone too young to have suffered exposures from the actions of Grace will have to look elsewhere to explain their health problems. Those born after the EPA came to Libby to save us, will suffer the same ultimate fate as the preceding generation without action from us now. The children we are raising in Libby today will carry the legacy of our inattention and inaction into the future.

Thank you for your consideration of this important matter. Sincerely, DC Orr Phone: 406-293-4702

